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C O N F I D E N T I A L KATHMANDU 002973

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SUBJECT: LAW AND ORDER DURING THE TRANSITION: CHALLENGES  
FACING NEPAL

REF: SEPTTEL: CHALLENGES FACING THE NEPALI POLICE

Classified By: Ambassador James F. Moriarty. Reasons 1.4 (b/d).

Summary  
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11. (C) Interviewees, including Nepal security forces, Government of Nepal officials, journalists, local and international NGOs, UN agencies and the UK Embassy, who met recently with TDYers from the Office of the Coordinator for Reconstruction and Stabilization (S/CRS) described a sharp downward trend in law and order since the ceasefire in April. Many pointed in particular to a rise in Maoist violations of the Ceasefire Code of Conduct, including an upsurge in extortion and local-level criminality. Government of Nepal representatives, NGOs, and international partners highlighted a security vacuum in both urban areas and the countryside resulting from the lack of security force presence, capacity, mandate or will to address security challenges. Civilian police in particular were described as being fearful of taking strong action against the Maoists. (Note: The Nepal Army is currently confined to barracks under the conditions of the Ceasefire Code of Conduct. End Note) There was general uncertainty regarding Maoist intentions and ultimate aims. However, there was near consensus that a political settlement was a prerequisite for improved security, and that bringing the Maoists into government offered the best chance to ensure their accountability for law and order. (Comment: But only if there are clear checks on their freedom of action. End Comment) The civilian police emerged as the most acceptable institution for providing security, but interviewees described the many challenges they face in carrying out their function. Many voiced concern regarding the short-sighted nature of the current peace process with regard to arms management, worrying that the peace settlement might lay out a process for Maoist disarmament without addressing the linkage to security sector reform needs and reintegration questions more broadly.

12. (C) From September 20 to 29, TDYers from the Office of the Coordinator for Reconstruction and Stabilization (S/CRS) were tasked by Post to assess the status of the law and order situation in Nepal with a focus on the role of the police in maintaining security. TDYers met with officials from the USG, Nepal security forces, Nepal government, journalists, local and international NGOs, UN agencies and the UK Embassy.

These consultations were supplemented by meetings in Washington and New York with U.S. interagency personnel, the intelligence community, UN agencies, NGOs and think tanks. The following text summarizes key themes that emerged in their consultations regarding law and order. (septel contains more specific findings on the police)

#### Rise of Maoist Criminality in Urban Areas and the Countryside

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13. (SBU) Government and security officials, international and local NGOs, UN agencies and journalists all described a spike in Maoist criminality since the April protests, most notably a rise in extortion both in the capital and countryside in clear violation of the May 28 Ceasefire Code of Conduct. Many cited the apparently unchecked presence of Maoists in large urban areas, particularly the Kathmandu Valley, as a significant change since before the ceasefire, when Maoists confined their activities to rural areas and smaller urban centers. Representatives from the UN Office of the Coordinator for Humanitarian Affairs (UNOCHA) described the Maoist takeover of selected customs posts and an upsurge of Maoist activity in Bhutanese refugee camps. Local businessmen lamented a large increase in extortion by the Maoists in urban centers. Interviewees often pointed to an increase in the number of Maoist militia and splinter groups and a more general mobilization of criminal groups along ethnic/religious lines, particularly in rural areas. An international NGO representative suggested that Maoists were "playing the ethnic card" to win more popular support, giving room to criminal activity at the local level in the name of ethnic identity/minority rights.

14. (C) Many theories emerged on the reason for the rise in Maoist extortion. Some suggested it was part of a Maoist strategy for fundraising ahead of Maoist entry into government, some saw it as a necessity for Maoists to feed their fighters, and others felt these illegal practices were indicative of the Maoist leadership's inability to control militia activity at the local level. Most agreed that recent Maoist activities were a means to increase pressure and intimidate the Seven Party Alliance (SPA) government during negotiations as well as undermine the government's credibility.

#### Paralysis of Security Forces

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15. (C) All of those interviewed commented on the lack of security service responsiveness to rising Maoist criminality. Members of Parliament said, "the security forces are in a state of confusion," blaming the Government of Nepal for not providing security institutions with orders and direction. Human rights groups described instances of crime and extortion in which even police present at the scene took no action. Most said the government hesitated to give directives to the security forces because they worried a strong response to Maoist criminality could upset the peace process. Police said they feared they did not have sufficient backing from their political leadership to carry out their duties, and worried about the possibility of retribution in the event Maoists entered government. In the face of clear Maoist violations of the Ceasefire Code of Conduct, journalists described how the government had abdicated its responsibility to maintain law and order, citing a lack of decision-making by government and political party leadership. UNDP and NGOs operating outside the Kathmandu Valley described Chief District Officers, who are the senior GON officers in charge, as powerless to enforce security, citing examples of joint patrolling and staffing of police posts by police and Maoists.

#### Political Settlement a Prerequisite for Improved Law and Order

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16. (C) Nepali government and security officials, local NGOs, and international partners agreed that a political

settlement was required to improve law and order. Until clear parameters were set for political power sharing and roles and responsibilities delineated for security personnel, they said, the security forces would likely remain in a state of paralysis. Many interviewed strongly believed that the only way to make Maoists accountable for their actions and to restore law and order was to bring them into government. The perception was that as long as Maoists remained outside government, they would continue to operate with impunity. As members of the government, they said, Maoist leadership would be forced to control their cadres and could be held responsible for securing law and order for the Nepali population. As one international NGO put it, "right now the Maoists are free, the government can't touch them. If they come into government, it will be incumbent upon them to control their own people." (Comment: We fear, however, that absent a peace agreement which provides a firm check on their activities, the Maoists will continue to pursue an aggressive agenda. End Comment)

#### Uncertainty Regarding Maoist Intentions/Capacity

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17. (C) Many contrasting viewpoints were voiced in terms of Maoists' intentions, capacity, and internal cohesiveness. Generally, those interviewed felt the Maoists were unlikely to break the ceasefire as negotiations offered their best chance for political power. The majority of interviewees, however, referred to the internal management problems the Maoists would likely face following a peace settlement. The Inspector General of Police suggested there would eventually be a breakdown of Maoist command-and-control at the local level with many Maoist militia groups acting outside of the writ of central leadership. Journalists described the difficulty Maoist leadership would have in convincing cadres at the local level to lay down arms, particularly as Maoists faced eroding popular support. Without guns, the journalists

said, the Maoists would receive little backing from the population.

#### Perspectives on Security Sector Reform in the Peace Process

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18. (SBU) Many of those interviewed voiced concern regarding the short-sighted nature of the current peace process with regard to arms management, worrying that the peace settlement might lay out a process for Maoist disarmament without addressing the linkage to security sector reform needs and reintegration questions more broadly. In particular, they asked, how would the People's Liberation Army (PLA) or Maoist militias be integrated into security forces and/or reintegrated back into communities with opportunities for jobs. Officials from the Ministry of Defense and others described the importance of clearly articulating the roles of the Nepal Army, Nepal Police, and the Armed Police. Most stressed the need for competent civilian oversight of the security forces. The Nepal Police, although often criticized for lack of capacity and professionalism, emerged as the most acceptable security institution to restore and sustain law and order. Both the Armed Police and the Nepal Army were less appealing to many of those interviewed because of their role in the April protests as well as, in the latter case, ties to the monarchy.

19. (C) On the issue of Maoist integration into the security forces, Nepali security institutions and government officials voiced clear opinions on acceptable solutions. The Inspector General of Police and officials from the Ministry of Defense stated that the Maoists would have to be vetted carefully and come into the security forces as recruits like all other candidates. The Police Inspector General suggested an alternative to bringing Maoists into the regular force would be to assign them special projects such as wildlife conservation, forestry management, and protection of industries. He described the difficulty of integrating Maoists into the regular armed forces, saying, "two swords can't stay in one case."

¶10. (SBU) Interviewees often cited the Kathmandu-centric nature of the peace process and raised concerns regarding how a settlement would address acute security concerns outside the Kathmandu Valley. UNHCR estimated 68 percent of the country was not under government control. The UN described the need to ensure that any power-sharing agreement reached in Kathmandu included models for local governance and security in the countryside. The Ministry of Home Affairs reported there was already some discussion ongoing in the negotiations on how existing Maoist security, judicial, and service delivery functions at the local level could be integrated into official governance structures. Those interviewed indicated that without the restoration of governance and provision of security in the countryside, free and fair constituent assembly elections in 2007 would be impossible.

Law and Order: Looking Ahead  
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¶11. (SBU) When asked about the likely outcomes in the event peace negotiations were drawn out, the majority of interviewees felt there was little potential for another popular movement or an armed Maoist uprising. Many felt the Maoists were pragmatic, realizing that the negotiation process offered more prospects for them to obtain and hold power. Instead, many anticipated the likelihood of further Maoist extortion and violence, both in the capital and countryside, as an intimidation tactic during the peace process. The Police IG and other government officials said that, if violence broke out, that the armed police and the army, if needed, could come out of their barracks.

¶12. (C) The UN, international and human rights NGOs, international partners and journalists interviewed expressed little concern that the Maoists would successfully establish a Maoist People's Republic in Nepal. The lack of support the Maoists had from the population, the watchdog role played by India and the wider international community as well as the mismatch in military power of Maoist forces versus a

mobilized Nepal Army, they reasoned, would be enough to prevent a total Maoist takeover. (Comment: We think that many of our interlocutors are too sanguine about Maoist intentions and capabilities. The best explanation for their continued use of violence is that they intend to intimidate the GON into negotiating a deal that provides them a clear path to power. End Comment)

Comment  
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¶13. (C) The sharp deterioration of law and order since the April protests, both in urban areas and the countryside, demands focused attention as part of the ongoing negotiation process. With the potential for drawn-out peace talks, the civilian police must be empowered in the near-term by their political leadership to resume their role as the guarantors of security. Clear public messages on the police role as well as symbolic, well-publicized police actions to counter Maoist criminality are necessary. A sustainable peace settlement will need to include a comprehensive package for security sector reform that couples clearly delineated roles for the Army, Police, Armed Police, and civilian political leadership with an acceptable plan for Maoist integration into security forces or reintegration back into communities. A peace settlement must also include planning for the restoration of GON governance and security presence in the countryside, and the dissolution of parallel Maoist structures. Without attention to law and order throughout the country, the potential for a stable peace and/or the achievement of a free and fair constituent assembly election fades. Unfortunately, the GON remains convinced that its policy of not restoring law and order until the PLA is in cantonment is necessary, and that to crack down on Maoist abuses would risk torpedoing the peace process.

MORIARTY